

# CCRB CASE CLOSING FORM

Investigator assigned: Case		Team: 8	CCRB#: <b>9700248</b>	FADO:
Date of incident: 1/20/97	Time of incident: 1345	Location of incident: In front of Madison High School	Pct. of occurrence: 61	Date SOL expires: 7/20/98
Date reported: 1/24/97	Time reported: 1202	To whom/where/how reported: By phone to CCRB		
Complainant: § 87(2)(b)		Home address: § 87(2)(b)		
Victim(s): § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b)		§ 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b)		
Witness(es): § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b)				
Subject officer(s) (include rank): Sgt. Michael Haran PO Timothy Murphy PO Jeffrey Gordon PO Kenneth Lehr		Shield: 1524 8745 29027 31378	Tax: 885064 894218 891574 891719	Command: 61 61 61 61
Witness officer(s) (include rank): PO Michael Licari		23570	881920	61

Allegation(s) by letter:	Recommendation(s):
A Abuse: Sgt. Michael Haran authorized a stop of the four boys listed as victims.	A § 87(2)(g)
B Discourtesy: Sgt. Michael Haran called the boys "assholes" and "jerkoffs."	B § 87(2)(g)
C Abuse: Sgt. Michael Haran authorized a frisk of the four boys without reasonable suspicion they were armed.	C § 87(2)(g)
D Abuse: Sgt. Michael Haran did not show the boys a badge	D § 87(2)(g)
E Abuse: PO Timothy Murphy did not show the boys a badge	E § 87(2)(g)
F Discourtesy: PO Timothy Murphy called the boys "assholes."	F § 87(2)(g)
G Abuse: PO Jeffrey Gordon did not show the boys a badge	G § 87(2)(g)
H Abuse: PO Kenneth Lehr did not show the boys a badge	H § 87(2)(g)

### Summary

On January 20, 1997, the four boys listed as witnesses were planning to play basketball at Madison High School, which was closed for the Martin Luther King Holiday. One of the boys was noticed by four anti-crime officers from the sixty-first precinct (the officers listed as subjects above). The three officers state that the boy was looking down driveways, while Sgt. Haran maintains that he was "acting in a suspicious manner" but does not elaborate except to say he was "looking around as though he was looking for the police or something." (See enclosure 16D) the boy being followed met up with his three friends and, still under the observation of the anti-crime officers, they checked that the school was locked; one boy peered into the window of the school and another tugged on the gate. As the boys walked away, Sgt. Haran spoke from the car, either calling the boys over or asking them where they were going. The boys did not respond, two of them apparently walking away from the car, and the sergeant spoke again, this time, according to three of the boys, calling them "jerkoffs." (See enclosures 4B, 5B, and 10B). PO Jeffrey Gordon, driving the car, hit the siren for a moment; the four officers exited the car and questioned the boys. Though the series of events is unclear, each of the four boys was frisked by an officer; the boys told the officers they had come to the school to play basketball, and § 87(2)(b) voluntarily opened his plastic shopping bag, which had a basketball inside. The officers filled out UF-250s on the boys and returned to the precinct.

Later in the afternoon, the parents went to the precinct. They complained of the incident and have complained to the CCRB of their treatment; § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

## Analysis

§ 87(2)(g)

§ 87(2)(g)

It is unclear which boy the officers first saw, for while the boys agree that § 87(2)(b) arrived last, the officers claim that the boy they followed, who arrived last, carried a backpack, while § 87(2)(b) was carrying a plastic shopping bag. Sgt. Haran states that the reasonable suspicion for stopping the first boy arose from the fact that he carried a bag, though it was not a schoolday, was near a school, and was looking over his shoulder “as though he was looking for the police or something,” (when pressed, Sgt. Haran states the boy was “looking back around, behind him, no specific manner” — see enclosure 16D for both).

§ 87(2)(g)

§ 87(2)(g)

All the boys state that an officer in front passenger seat of the car spoke before the officers were out of the car and before the car stopped; Sgt. Haran was in the front passenger seat, though in § 87(2)(b)'s description, he is in the rear passenger seat, with PO Timothy Murphy in the front (all the other boys provide descriptions that best match the actual seating arrangement). Only PO Kenneth Lehr, among the officers, acknowledges that an officer spoke before getting out of the car; PO Lehr states that “we asked them to come over to the car,” though he does not remember who spoke (see enclosure 15D). Three of the boys (including § 87(2)(b), who was interviewed on a separate day from the others) provide the word “jerkoff” when describing what the officer who first spoke said (see enclosures 4B, 5B, and 10B) § 87(2)(g)

The boys acknowledge walking away at first, stating that they did not know that the men calling to them from an unmarked car were in fact police officers. § 87(2)(g)

The officers all state that the boys walked away; however, the boys story that they did not know the men inside the car were police officers is believable. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Though two of the boys did walk away when the officers first called to them (as they admit in their interview), even Sgt Haran states that the boys did not know the men were police officers, § 87(2)(g)

In addition, Sgt. Haran states that one boy voluntarily opened his bag, showing a basketball. As has been found in *People v. Hudson*, where a man walking down a street "plagued by numerous burglaries, carrying a three-foot long object wrapped in a sheet" was reasonably stopped and questioned, the ensuing frisk was not reasonable (see enclosure 19A). § 87(2)(g)

§ 87(2)(g)

The officers state they had their badges out around their necks, but the fact that the boys identify the one badge they saw as being on a chain around the neck, § 87(2)(g)

Investigator:

Alvin Ch...

Date:

7/20/97

Supervisor:

R3 Linkowski

Date:

7-30-97

Reviewed by:

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Date:

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Reviewed by:

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